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Note verbale dated 27 June 2016 from the Permanent Mission of France to the United Nations addressed to the Chair of the Committee

The Permanent Mission of France to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report on the implementation by France of resolution 2270 (2016), in accordance with the provisions of paragraph 40 (see annex).

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**Annex to the note verbale dated 27 June 2016 from the
Permanent Mission of France to the United Nations
addressed to the Chair of the Committee**

**Report of France to the Security Council on measures taken
to implement resolution 2270 (2016)**

I. Introduction

Resolution 2270 (2016) of 2 March 2016 substantially strengthens the sanctions regime against the Democratic People's Republic of Korea by introducing new sectoral sanctions, including an embargo on exports of certain natural resources from that country. The existing provisions are also strengthened, such as the restriction on access to foreign currency that enables the procurement of equipment for the development of nuclear and ballistic missile programmes and the restriction on the import of other equipment.

In paragraph 40 of resolution 2270 (2016), the Security Council:

Calls upon all States to report to the Security Council within ninety days of the adoption of [resolution 2270 (2016)], and thereafter upon request by the Committee, on concrete measures they have taken in order to implement effectively the provisions of this resolution, requests the Panel of Experts established pursuant to resolution 1874 (2009), in cooperation with other UN sanctions monitoring groups, to continue its efforts to assist States in preparing and submitting such reports in a timely manner, and directs the Committee to prioritize outreach to those Member States who have never submitted implementation reports as requested by the Security Council.

In accordance with these provisions, France wishes to draw the Security Council's attention to the measures taken to implement paragraphs 6-15, 17-23 and 27-39 of the resolution.

(a) Resolutions of the Security Council are transposed into European law by decisions and regulations of the Council of the European Union. Measures within the jurisdiction of member States (travel bans, arms embargo) are implemented by them on the basis of Decision (CFSP) 2016/319 of the Council of the European Union of 4 March 2016, which transposes the new designations established by resolution 2270 (2016), and Decision (CFSP) 2016/476 of 31 March 2016, which transposes the sectoral measures. Measures within the jurisdiction of the European Union, such as the asset freeze and the restrictions on imports and exports (apart from the arms embargo), are the subject of regulations of the European Union (Commission Implementing Regulation (EU) 2016/315 of 4 March 2016 and Council Regulation (EU) 2016/682 of 29 April 2016).

Decision (CFSP) 2016/476 and Regulation (EU) 2016/682 provide for the implementation of the provisions of resolution 2270 (2016), namely:

- Extension of the prohibition of imports and exports;
- Prohibition of the export of aviation fuel to the Democratic People's Republic of Korea;

- Prohibition of the procurement from the Democratic People's Republic of Korea by nationals of Member States or using Member States' flag vessels or aircraft of gold, ores and rare earth minerals;
- The obligation to expel diplomats involved in illegal activities;
- The obligation to expel nationals of the Democratic People's Republic of Korea who have been determined by Member States to be acting on behalf or at the direction of a designated individual or entity or to be assisting in the evasion of sanctions;
- The obligation to close the offices of designated entities and expel their representatives;
- Prohibition of specialized teaching or training of nationals of the Democratic People's Republic of Korea within Member States' territories or by their nationals;
- Expansion of the obligation to inspect cargo;
- Prohibition of the leasing or chartering of the flagged vessels or aircraft of a Member State or the provision of crew services to the Democratic People's Republic of Korea or to designated individuals or entities;
- Denial of permission to any aircraft to take off from, land in or overfly a State's territory if the State has information that provides reasonable grounds to believe that the aircraft contains items in which trade is prohibited by resolutions of the Security Council;
- Prohibition of entry into the ports of the European Union of any vessel controlled by a designated entity or suspected of involvement in illegal activities;
- The freeze of assets of entities of the Government or the Workers' Party of Korea that are involved in illegal activities;
- Prohibition of the opening and operation of new branches, subsidiaries or representative offices of banks of the Democratic People's Republic of Korea;
- The obligation to close existing offices and branches of banks of the Democratic People's Republic of Korea within 90 days;
- The obligation to close offices, subsidiaries or banking accounts of European Union business operations in the Democratic People's Republic of Korea;
- Extension of the prohibition of financial support for trade with the Democratic People's Republic of Korea;

(b) These measures fall within the broader framework of strengthened European Union action to combat proliferation. Adopted in 2008 when France held the Presidency of the Council of the European Union, and extended by Council document 15104/13 of October 2013, the new lines for action by the European Union in combating proliferation strengthen the implementation of the 2003 European non-proliferation strategy, in particular in terms of combating proliferation flows, controlling access to sensitive information and adapting to the strategies of proliferators.

On 27 May 2016, the Council of the European Union adopted Decision (CFSP) 2016/849 imposing additional autonomous individual and sectoral measures on the Democratic People's Republic of Korea. In particular, the Decision:

- Extends the list of luxury goods subject to an export prohibition;
- Prohibits the import of luxury goods;
- Extends the prohibition of exports from the Democratic People's Republic of Korea to petroleum products;
- Prohibits financial transactions without the prior authorization of the competent authorities;
- Extends the prohibition of public financial support for trade with the Democratic People's Republic of Korea;
- Prohibits any vessel of the Democratic People's Republic of Korea from entering the territory of the European Union and any aircraft of the Democratic People's Republic of Korea from entering or overflying the territory of the European Union;
- Prohibits any new investment in the Democratic People's Republic of Korea and any new investment from that country.

The European Union has also strengthened its autonomous individual sanctions against the Democratic People's Republic of Korea by designating 18 officials of the country and one entity responsible for the operational implementation of nuclear and ballistic missile programmes. France has played a leading role in Brussels in strengthening these sanctions.

(c) At the national level, French law establishes an autonomous offence of proliferation financing (Act No. 2011-266 of 14 March 2011 on combating the proliferation of weapons of mass destruction and their delivery systems).

The following section describes the measures taken by France pursuant to paragraphs 6-15, 17-23 and 27-39 of resolution 2270 (2016).

II. Embargo and asset freeze

A. Embargo on arms and related materiel

The export from France of war materiel is strictly controlled on the basis, *inter alia*, of article L2335-2 of the Defence Code (an instrument having the force of law), which:

Prohibits the export, without prior authorization, of war materiel and related items to non-members of the European Union and the territories outside the customs territory of the European Union.

The administrative authority establishes the list of war materiel and related items subject to prior authorization and exceptions to this authorization.

The scope of this prohibition is defined by the Decree of 27 June 2012, as amended, which repeats the items in the Common Military List of the European Union and adds space-related items and technologies. The law provides for criminal penalties

in cases of failure to comply with the legislative and regulatory provisions concerning the export of war materiel and related items (Defence Code, art. L2339-11-1).

Export licences, which constitute an exception to that prohibition, may be issued only on completion of an interministerial review procedure. However, in the light of Security Council resolution 1718 (2006), Council Common Position 2006/795/CFSP and amended Council Regulation (EC) No. 329/2007, the interministerial commission to review exports of war materiel would reject any application for a licence to export war materiel to the Democratic People's Republic of Korea. Nonetheless, no French company has sought a licence to export such items to that country for many years.

B. Embargo on items, materials, equipment, goods and technology which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea

Under the interministerial procedure for reviewing applications for licences to export dual-use items, all applications for licences to export items listed in Council Regulation (EC) No. 428/2009 of 5 May 2009 (last amended by delegated Council Regulation (EC) No. 2015/2420 of 12 October 2015) are denied.

C. Embargo on luxury goods, gold and precious metals

All French business operations have access to the national automated comprehensive listing of tariffs (RITA), which reflects the provisions of amended Council Regulation (EC) No. 329/2007 (list of luxury goods in annex III), and the comprehensive tariff database of the European Union (TARIC).

The French customs services systematically certify that exports to the Democratic People's Republic of Korea do not include items listed in annex III of amended Council Regulation (CE) No. 329/2007. If the merchandise being exported is confirmed as appearing on the list in annex III, its export is prohibited.

D. Freezing of financial assets and economic resources and prohibition of funding

Banks and financial institutions in France are informed of European Union measures regarding the designation of entities and individuals subject to an assets freeze via, inter alia, the Official Journal of the European Union, the consolidated list of financial sanctions of the European Union¹ and the website of the Department of the Treasury (via a dedicated page on the sanctions regime against the Democratic People's Republic of Korea² and a single list of freezing measures applicable in France),³ and they are required to implement them without delay.

¹ http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm.

² www.tresor.economie.gouv.fr/3751_Coree-du-Nord.

³ http://www.tresor.economie.gouv.fr/11448_liste-unique-de-gels.

Since 2012, France, pending the publication of the European Regulation, has applied a national freezing order on the basis of article L562-2 of the Monetary and Financial Code, which, in accordance with Recommendation 7 of the Financial Action Task Force, implements without delay in France the asset freeze measures adopted by the United Nations under the sanctions regime against the Democratic People's Republic of Korea. This order also applies to the overseas countries and territories that are not covered by European regulations.

On the basis of United Nations resolutions and European texts, towards the end of January 2014, France proceeded to designate an additional three individuals subject to the asset freeze under a decree issued by the Minister of Finance and Public Accounts pursuant to articles L562-2 ff. of the Monetary and Financial Code. Those designations were made on the grounds that those individuals were at risk of committing acts in relation to the Democratic People's Republic of Korea that are referred to or prohibited by resolutions adopted under Chapter VII of the Charter of the United Nations or decisions taken under article 15 of the Treaty on European Union. That freeze, for an initial period of six months, was extended at the end of July 2014 and renewed at the end of January 2015 for two individuals. These national freezing measures have expired since 1 August 2015.

E. Denial of entry into the territory

Since the announcement of the nuclear test carried out on 9 October 2006, France has severely restricted access to its territory by nationals of the Democratic People's Republic of Korea. Visa applications from non-listed persons with high-level State or Party responsibilities are examined by the French authorities on a case-by-case basis and, barring some exceptions, are denied.

F. Inspection of cargo shipped to or from the Democratic People's Republic of Korea

Special control measures applicable to trade from or to the Democratic People's Republic of Korea have been implemented by the French customs authorities. These measures apply to exports to or imports from the Democratic People's Republic of Korea of weapons and goods which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes. In addition, the fraud monitoring system is alerted to any shipments of prohibited items that may be transported by sea to or from the Democratic People's Republic of Korea.

III. Financial sanctions

A. Obligation not to enter into new commitments for grants, financial assistance or loans to the Democratic People's Republic of Korea and to reduce current commitments

France provides no financial assistance or concessional loans, either individually or through its participation in international financial institutions, to the

Democratic People's Republic of Korea, except for the purposes specified by the Security Council.

B. Obligation not to provide public financial support for international trade which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea

The credit insurance policy of France is closed to the Democratic People's Republic of Korea, which means that no insurance coverage is possible for companies that wish to export goods to that country.